

## § 5.7

### § 5.7 Regulatory docket.

(a) Records of the Office of the Secretary of Transportation concerning rulemaking actions, including notices of proposed rule making, comments received in response to those notices, petitions for rulemaking or exemption, petitions for rehearing or reconsideration, grants and denials of exemptions, denials of petitions for rule making, and final rules are maintained in current docket form in the Office of the General Counsel.

(b) Any person may examine any docketed material at that office and may obtain a copy of any docketed material upon payment of the prescribed fee.

### Subpart B—Petitions for Rulemaking or Exemptions

#### § 5.11 Filing of petitions.

(a) Any person may petition the Secretary to issue, amend, or repeal a rule, or for a permanent or temporary exemption from any rule.

(b) Each petition filed under this section must:

(1) Be submitted in duplicate to the Docket Clerk, Office of the General Counsel, Department of Transportation, Washington, DC 20590;

(2) Set forth the text or substance of the rule or amendment proposed, or of the rule from which the exemption is sought, or specify the rule that the petitioner seeks to have repealed, as the case may be;

(3) Explain the interest of the petitioner in the action requested including, in the case of a petition for an exemption, the nature and extent of the relief sought and a description of the persons to be covered by the exemption;

(4) Contain any information and arguments available to the petitioner to support the action sought; and

(5) In the case of a petition for exemption, unless good cause is shown in that petition, be submitted at least 60 days before the proposed effective date of the exemption.

#### § 5.13 Processing of petitions.

(a) *General.* Each petition received under § 5.11 of this part is referred to

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the head of the office responsible for the subject matter of that petition. No public hearing, argument, or other proceeding is held directly on a petition before its disposition under this section.

(b) *Grants.* If the Secretary determines that the petition contains adequate justification, he initiates rulemaking action under subpart C of this part or grants the exemption, as the case may be.

(c) *Denials.* If the Secretary determines that the petition does not justify initiating rule-making action or granting the exemption, he denies the petition.

(d) *Notification.* Whenever the Secretary determines that a petition should be granted or denied, the office concerned and the Office of the General Counsel prepare a notice of that grant or denial for issuance to the petitioner, and the Secretary issues it to the petitioner.

### Subpart C—Procedures

#### § 5.21 General.

(a) Unless the Secretary finds, for good cause, that notice is impractical, unnecessary, or contrary to the public interest, a notice of proposed rule making is issued and interested persons are invited to participate in the rulemaking proceedings with respect to each substantive rule.

(b) Unless the Secretary determines that notice and public rulemaking proceedings are necessary or desirable, interpretive rules, general statements of policy, and rules relating to organization, procedure, or practice are prescribed as final without notice or other public rulemaking proceedings.

(c) In his discretion, the Secretary may invite interested persons to participate in the rulemaking proceedings described in § 5.29 of this subpart.

(d) For rules for which the Secretary determines that notice is unnecessary because no adverse public comment is anticipated, the direct final rulemaking procedure described in § 5.35 of this subpart may be followed.

[32 FR 10363, July 14, 1967, as amended at 69 FR 4458, Jan. 30, 2004]